

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 26th day of May 2009 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call: **Donald Bollin-President**
 JoAnne Arruda-Vice President
 Hannibal Costa
 Louise Durfee

Jay Lambert
 Cecil E. Leonard
 Edward Roderick

Town Administrator, James C. Goncalo Assistant Town Solicitor, Jeanne Scott were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda for approval.

Councilor Arruda made a motion, seconded by Councilor Leonard to accept the Consent Agenda as read. Motion passed unanimously.

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings.

- a. Approval of Minutes from May 11, 2009 Regular Council Meeting
- b. Approval of Executive Session Minutes from May 11, 2009 Council Meeting
- c. Approval of Executive Session Minutes from April 27, 2009 Council Meeting Councilor Bollin abstained – absent
- d. Approval of Special Meeting Executive Session on April 24, 2009 Councilor Arruda abstained – absent

A-2-Receipt of Minutes from Various Board and Commissions:

- a. Recreation Commission
- b. Historical Cemetery
- c. Cemetery Commission
- d. Wastewater Management
- e. Planning Board
- f. Harbor Commission

A-3-Correspondence– Receive and File

- a. Received From Town of Burrillville Regarding Opposing House Bill H-5971 An Act Relating to Parks and Recreational Areas
- b. Received From Town of Charlestown Regarding Support of U.S. Supreme Court Opinion in *Carcieri v Salazar* - Ensuring All Land Throughout Rhode Island be Governed by State Law and Municipal Ordinances
- c. Received From Caroline Sedano Regarding Public Financing of All General Elections in Rhode Island

A-4-Approval of Tax Assessor Abatements

A-5-Approval to Schedule Public Hearing on June 22 Council Meeting for Noise Variance on Outdoor Music at St. Theresa's Annual Feast to be Held on July 31 and August 1

BUSINESS BROUGHT BEFORE THE COUNCIL

FINANCIAL BUSINESS:

Town Administrator– Request Approval of Transfer for \$11,351.22 From Acct 554-611 (DPW Gas & Oil) to Acct 105-359 (Litigation)

Councilor Leonard made a motion, seconded by Councilor Roderick to approve the transfer of \$11,351.22 from Account #554-611 (DPW Gas & Oil) to Account #105-359 (Litigation). Motion passed unanimously.

Town Administrator – Request Approval of Transfer for \$19,654.90 From Acct 331-101 (Firefighter Salaries) to Acct 331-102 (Overtime)

Councilor Leonard made a motion, seconded by Councilor Roderick to approve the transfer of \$19,654.90 from Account #331-101 (Firefighter Salaries) to Account #331-102 (Overtime). Motion passed unanimously.

Town Administrator/DPW Director – Request Approval of Transfer of Funds From Acct 554-611(DPW Gas & Diesel) for \$5,398.52 and From Acct 553-611 (Landfill Gas & Diesel) for \$7,701.48 to Acct 553-339 (Engineering Services)

Councilor Arruda made a motion, seconded by Councilor Leonard to approve the transfer of \$5,398.52 from Account #554-611 (DPW Gas & Oil) and \$7,701.48 from Account #553-611 (Landfill Gas & Diesel) to Account #553-339 (Engineering Services). Discussion followed regarding the \$3,000 landfill license renewal fee, informed by DPW Director was a reimbursement to Pare Engineering who is handling renewal. Motion passed unanimously.

Town Clerk – Request Release of Carry Forward Acct 098-101-553 Recodify Town Code for \$9,925.00

Councilor Durfee made a motion, seconded by Councilor Arruda to release as requested by the Town Clerk Carry Forward Account 098-101-553 for \$9,925.00 to recodify the Town Code. Motion passed unanimously.

Town Administrator – Request Approval for Release of Carry Forward Funds In the Amount of \$49,391.14 From the Following Accounts and Transfer to Account 331-102 (Fire Department Overtime)
Account 098- 554-610 (DPW Heat) for \$1,918.65
Account 098-554-611 (DPW Gas & Motor Oil) for \$1,151.74
Account 098-554-698 (DPW Sand, Salt, Gravel & Pipe) for \$22,786.84
Account 098-554-794 (DPW Drainage & Paving) for \$22,728.42

Administrator Goncalo asked that the request to release and transfer from Account 098-108-340 (Zoning Board of Rev Stenographer) for \$805.49 be removed from the request. Councilor Bollin asked where this would put the budget in regards to the overtime. The administrator noted there is a slight shortage, depends on vacation schedule. Councilor Bollin noted the Council was basically transferring some \$68,000 to Fire Dept. Overtime by depleting other accounts.

Councilor Costa questioned DPW Director Berlucchi noting he recently attempted to increase budget at FTM. Responded DPW could use all the money it could get and then some and anticipates a shortfall next year. Trying to help juggle shortfalls for this fiscal. Administrator Goncalo noted future shortfalls depend on contract negotiations, approximately \$15,000 short for end of this fiscal year.

Councilor Durfee made a motion (with anguish), seconded by Councilor Arruda to release the Carry Forward Funds in the amount of \$48,585.65 and Transfer to Account #331-102 (Fire Department Overtime). Motion passed unanimously.

The Town Council was sitting as the Board of Licensing Commissioners:

BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:

Huejan, Inc., d/b/a Lil' Bear Sports Lounge, 983 Main Road

a. Requesting Full Liquor BV License – Subject to Meeting All Legal Requirements –Continue from May 11

President Bollin opened the Public Hearing continued from May 11,2009 for the full liquor BV license for Huejan, Inc., d/b/a Lil' Bear Sports Lounge. Owner Huck Little read a statement to the Council, acknowledged a license was a privilege not a right, gave back to the community when possible, held fundraisers, etc. There will be no bands, no DJ, no dance floor, a small dining room, may be small functions, breakfast would be served 6:00 am

to 2:00 pm. Probably dinner on Friday and Saturday nights. Several abutters were concerned about the noise, people drinking on the deck, the doors remaining opened. Mr. Little noted the decks will not be used for congregation or service, the establishment was going to have full air conditioning, no events outside, if people are assembling they will be disbursed.

Chief Blakey noted the Police usually have a cruiser check all bars at closing. President Bollin noted with the Noise Ordinance there is a limit and a way to take action. The first complaint is filed with the Police and appropriate action taken. Councilor Durfee could not recall any complaints when Mr. Little was the owner. President Bollin closed the Public Hearing at this time.

Councilor Costa, made a motion, seconded by Councilor Roderick to grant a full liquor BV license, subject to meeting all legal requirements to Huejan, Inc., d/b/a Lil' Bear Sports Lounge. Motion passed unanimously.

b. Requesting Entertainment License – Subject to Meeting All Legal Requirements Continued from May 11

President Bollin re-opened the Public Hearing on the Entertainment License request. Councilor Roderick asked Mr. Little about small functions. Mr. Little noted a small combo might be used. Councilor Durfee requested the testimony during the liquor license public hearing be considered and entered as part of the hearing. Clerk will note.

Councilor Bollin did not want to restrict the license until the Council received complaints. Knows the concerns of the abutters regarding the noise levels. Mr. Little reiterated, a DJ would only be used for special parties, not weekly, no bands with very loud music. President Bollin closed the Public Hearing on the Entertainment License.

Councilor Durfee made a motion, that the license be granted with the conditions the doors remain closed and there be no amplification. Councilor Leonard seconded the motion for discussion.

Councilor Roderick noted by this motion there would be no small functions like a wedding. Councilor Costa thought the restrictions were improper. The motion failed on a vote of 2-5, Councilors Lambert, Roderick, Arruda, Bollin and Costa against the restriction.

Councilor Lambert made a motion to grant the Entertainment License, subject to meeting all legal requirements. Councilor Costa seconded and amended the motion to include no restrictions. Motion passed on a vote of 5-2, Councilors Durfee and Leonard opposed.

BOARD OF LICENSING COMMISSIONERS -NON ADVERTISED

Huejan, Inc., d/b/a Lil' Bear Sports Lounge, 983 Main Road Requesting Victualling License – Subject to Meeting All Legal

Councilor Durfee, made a motion, seconded by Councilor Arruda to grant a Victualling License to Huejan, Inc., d/b/a Lil' Bear Sports Lounge, subject to meeting all legal requirements. Motion passed unanimously.

Mr. Little thanked the Council and asked the abutters to come to him if they have any problems.

APPOINTMENTS & RESIGNATIONS

Town Administrator – Request Council Approval for Tax Collector Appointment

Administrator Goncalo requested the Council approve the appointment of Toni Lyn McGowan as Tax Collector.

Councilor Leonard made a motion to approve the Administrator's recommendation. Councilor Lambert seconded the motion noting there were two excellent candidates. President Bollin asked for nominations. Councilor Arruda nominated Laura Epke, seconded by Councilor Roderick. President Bollin noted the Council needed to act on the first motion, the nomination of Toni Lyn McGowan. Councilors Lambert, Bollin, Leonard

and Costa voted to approve the Administrator's recommendation, Councilors Roderick, Arruda and Durfee opposed. Toni Lyn McGowan was named Tax Collector.

NEW BUSINESS:

C. Spencer, Town Planner – Request Date for Public Hearing be Set for Proposed Zoning Changes

Chris Spencer, Town Planner, was requesting a date for a Public Hearing for Proposed Zoning Changes. The Planning Board had agreed on a general consensus packet that would be given to the Council at the next meeting. Councilor Durfee noted the Council needed to know what they were going to advertise. President Bollin noted the Council could schedule a Public Hearing at the June 8th meeting if the Council has the full packet.

Councilor Durfee made a motion, seconded by Councilor Roderick to continue the request for a Public Hearing for the Proposed Zoning Changes to June 8th. Motion passed unanimously.

Town Clerk – Request Approval to Enter into Agreement for Revision and Re-codification of Town Ordinances and Statues

Town Clerk, Nancy Mello was requesting approval to enter into agreement for Re-Codification and revision of the Town Ordinances. Discussion ensued, Clerk noted this would clean up the Ordinances, the whole process would look at the Ordinances and address any issues. The Charter states the Solicitor is authorized to go through the Ordinances. Councilor Costa, a former Town Clerk, questioned the need for this if the Code Supplement process is still being done. Councilor Durfee noted some Ordinances are inconsistent; there should be a sensible Code. Councilor Bollin there are some Ordinances that are archaic. Councilor Arruda pointed out one such ordinance, the Blunder Buster Ordinance on Sundays.

Councilor Durfee made a motion, seconded by Councilor Arruda to approve the request to enter into an Agreement for Revision and Re-Codification of Town Ordinances and Statues. Motion passed 6-0-1, Councilor Costa abstained.

BIDS & REQUESTS FOR PROPOSALS

Town Administrator/ DPW Director – Request Approval to Solicit Bids for Mower/Brush Cutter Lease Purchase

Administrator Goncalo requested the approval to Solicit Bids for lease/purchase of a Mower/Brush Cutter as approved at the Financial Town Meeting. Lengthy discussion followed. Councilors understood the Town was buying a Cutter and there was no additional charge. According to this request the total cost is \$32,000, the amount approved by Council and Budget Committee as well as at the Town Meeting was \$22,080. DPW Director Berlucchi wanted to use the funds left in this year's budget, roughly \$10,000 along with the funds from the Town Meeting. Total cost for the cutter is \$32,000. Councilor Arruda, who attended the Budget Committee meetings said a lease was never mentioned, under the impression the \$22,000 was the purchase price.

President Bollin also was under the impression the \$22,000 was for a used Brush Cutter; there was no mention of using money out of this year's budget. Councilor Durfee took offense at being misled, Director Berlucchi was unclear on how to separate the lease from the purchase price. Councilor Arruda noted it was not explained to the Budget Committee in this way, no mention of a lease. Councilor Leonard noted only \$22,000 was authorized at the Town Meeting, obvious solution is to purchase a mower for that price.

Councilor Leonard made a motion to disapprove the request to go to bid. Councilor Costa suggested a motion to table; seconded by Councilor Durfee, motion to table passed unanimously.

Town Administrator/Police Chief Blakey - Request Approval to Solicit Bids for Animal Shelter (Pound Services)

Administrator Goncalo noted to the Council the Bid was for the next three years.

Councilor Durfee made a motion to authorize the Administrator to Solicit Bids for Animal Shelter (Pound Services). Seconded by Councilor Arruda, motion passed unanimously.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS

1. As part of a collaborative, went out for bid, the School and Town chose Petro Oil. Document sent was totally unacceptable and returned to Petro, have no agreement. Have met with them, they will lock in oil at \$2.19 vs. the \$2.75 estimate in 09/10 budget.
2. Delinquent notices sent out, good response, received \$146,000 in the last two weeks.
3. Abatements this year \$44,277 or .14%. Third year in the three-year cycle.
4. Going to arbitration for one Police Dept. and two Fire Dept. grievances.
5. The individual who was interested in the Industrial Park is no longer interested.
6. RI DOT evaluating signage on Stafford Road for a bike route.
7. \$300,000 for abatements was defeated, as they materialize, will have to look at places to cut.
8. Tiverton Police Department will receive a \$39,000 Grant for computer maintenance and upgrade. Of this amount, \$15,000 is Stimulus Money, and \$24,000 if from a Byrn Grant.
9. Waiting to meet with Joe Dias, will update the Council on the Skate Park at next meeting.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Arruda announced Councilor Louise Durfee received an Honorary Doctorate in Law from Roger Williams University at Commencement on May 22, 2009. A trailblazing lawyer and early champion of legal protections for the environment in Rhode Island, Councilor Durfee was the first woman ever appointed to Rhode Island's Board of Bar Examiners and has served on the state's Advisory Committee on Judicial Appointments. Councilor Durfee received congratulations and applause from the Council and the audience. Durfee thanked everyone.

Councilor Durfee asked the Treasurer if he received the official statement regarding the upcoming Bond Issue. Treasurer DiMattia will be meeting on June 11th and was informed would be available at that time. Councilor Durfee requested copies of first draft be circulated to Council in time for possible changes to be made. Treasurer will forward to the Administrator and the Council upon receipt.

CLOSED EXECUTIVE SESSION

Town Solicitor - Litigation – 42-46-5(a) (2)

In Open Session, Councilor Durfee made a motion, seconded by Councilor Leonard to enter into Executive Session pursuant to 42-46-5(a)(2)-Litigation. Motion passed unanimously.

The Council entered into Executive Session at approximately 8:20 p.m.

The Council returned to Open Session at approximately 9:25p.m.

OPEN SESSION:

In open session Council President Bollin stated no formal action had been taken in Executive Session.

Councilor Roderick motioned to seal the minutes of the Executive Session, seconded by Councilor Durfee. Motion passed unanimously.

ADJOURNMENT:

Councilor Roderick motioned to adjourn, seconded by Councilor Durfee. Motion passed unanimously. Council adjourned at approximately 9:30p.m.

A True Copy.

ATTEST: _____ Nancy L. Mello, Town Clerk

